

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Criminal Action No.3:05CR68-5

GEORGE CARTER,

Defendant.

REPORT AND RECOMMENDATION

On January 13, 2006, came the United States of America by Paul Camilletti, Assistant United States Attorney, and the Defendant, GEORGE CARTER, in person and by his counsel, Barry Beck, for a Motions Hearing. The Court proceeded to hear Defendant Carter's Motions.

1. Defendant, George Carter's, Motion to Represent Himself (#197)

After discussion with the Court on the record and with counsel, the Defendant decided to withdraw his Motion to Represent Himself at this time.

DECISION

It is hereby **RECOMMENDED** that Defendant's Motion to Represent Himself be **WITHDRAWN** at this time, reserving Defendant's right to re-file this motion at any time if the Defendant so desires.

2. Motion for Extension of Time to File Pretrial Motions (#196)

The Defendant requests that the Court allow him to file the following Motion for Severance. The United States does not object to this motion.

DECISION

It is hereby **RECOMMENDED** that the Defendant's Motion for Leave to File the Motion for Severance is **GRANTED**.

3. Motion for Severance (#198)

Defendant contends that statements by co-defendant Joann Christian, provided in the discovery, incriminate the Defendant with regards to Counts 6 and 10. The Defendant contends that the only way to adequately protect his Sixth Amendment right to confrontation is to exclude these statements at trial or to grant a severance of the other defendant.

The United States contends that the statements are oral and therefore are easily able to be redacted for trial purposes. In addition, the United States contends that Defendant Christian's statements may not even be an issue at the time of the trial.

DECISION

The Court finds that this motion is premature. It is hereby **RECOMMENDED** that Defendant's Motion for Severance be **DENIED** with leave to file as a Motion in Limine.

IT IS FURTHER ORDERED THAT:

Any party who appears pro se and any counsel of record, as applicable, may, within ten (10) days after being served with a copy of this Order, file with the Clerk of the Court an original and two (2) copies of the written objections identifying the portions of the Order to which objection is made, and the basis for such objection. Failure to timely file objections to the Order set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Order.

The Clerk of the Court is directed to mail a copy of this Order to parties who appear pro se and any counsel of record, as applicable.

DATED: 1-13-06



DAVID J. JOEL
UNITED STATES MAGISTRATE JUDGE